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7 CFR Ch. XIV (1–1–10 Edition)

(1) Adopted any scheme or device that tends to defeat the purpose of CSP;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a CSP determination, must refund to NRCS all payments, plus interest, and liquidated damages as determined in accordance with §1469.25 received by such participant with respect to all contracts. In addition, NRCS will terminate the participant's interest in all conservation stewardship contracts.

(c) If the producer acquires land subsequent to enrollment in CSP, that land is not considered part of the agricultural operation; however, if the land was previously owned or controlled by them before the date of enrollment and after May 13, 2002, then NRCS will conduct an investigation into the activity to see if there was a scheme or device.

**PART 1470—CONSERVATION
STEWARDSHIP PROGRAM**

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AUTHORITY: 16 U.S.C. 3838d–3838g.

Subpart A—General Provisions

SOURCE: 74 FR 37511, July 29, 2009, unless otherwise noted.

§ 1470.1 Applicability.

(a) This part sets forth the policies, procedures, and requirements for the Conservation Stewardship Program (CSP) as administered by the Natural Resources Conservation Service (NRCS), for enrollment during fiscal year 2009 and thereafter.

(b) The purpose of CSP is to encourage producers to address resource concerns in a comprehensive manner by:

(1) Undertaking additional conservation activities; and

(2) Improving, maintaining, and managing existing conservation activities.

(c) CSP is applicable in any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(d) NRCS provides financial assistance and technical assistance to participants for the conservation, protection, and improvement of soil, water, and other related natural resources, and for any similar conservation purpose as determined by NRCS.

§ 1470.2 Administration.

(a) The regulations in this part will be administered under the general supervision and direction of the Chief, NRCS, who is a Vice President of the Commodity Credit Corporation (CCC).

(b) The Chief is authorized to modify or waive a provision of this part if the Chief deems the application of that provision to a particular limited situation to be inappropriate and inconsistent with the purposes of the program. This authority cannot be further delegated. The Chief may not modify or waive any provision of this part which is required by applicable law.

(c) To achieve the conservation goals of CSP, NRCS will:

(1) Make the program available nationwide to eligible applicants on a continuous application basis with one or more ranking periods to determine enrollments, one of the ranking periods shall occur in the first quarter of each fiscal year, to the extent practicable; and

(2) Develop conservation measurement tools for the purpose of carrying out the program.

(d) NRCS will, to the maximum extent practicable, manage CSP to achieve a national average rate of \$18 per acre, which includes the costs of all financial and technical assistance, and any other expenses associated with program enrollment and participation.

(e) NRCS will establish a national target to set aside five percent of CSP acres for socially disadvantaged farmers or ranchers, and an additional five percent of CSP acres for beginning farmers or ranchers.

(f) The State Conservationist will:

(1) Obtain advice from the State Technical Committee and local working groups on the development of State-level technical, outreach, and program issues, including the identification of priority resource concerns for a State, or the specific geographic areas within a State;

(2) Assign NRCS employees as Designated Conservationists to be responsible for CSP at the local level; and

(3) Be responsible for the program in their assigned State.

(g) NRCS may enter into agreements with Federal agencies, State and local agencies, conservation districts, Indian Tribes, private entities, and individuals to assist NRCS with program implementation.

§ 1470. 3 Definitions.

The following definitions will apply to this part and all documents issued in accordance with this part, unless specified otherwise:

Agricultural land means cropland, rangeland, and pastureland on which agricultural products, or livestock are produced and resource concerns may be addressed. Agricultural lands may also include other land and incidental areas included in the agricultural operation as determined by NRCS.

Agricultural operation means all agricultural land and other land, as determined by NRCS, whether contiguous or noncontiguous:

(1) Which is under the effective control of the applicant for the term of the proposed contract; and

(2) Which is operated by the applicant with equipment, labor, management, and production or cultivation practices that are substantially separate from other operations.

Animal waste storage or treatment facility means a structural conservation practice used for storing or treating animal waste.

Applicant means a person, legal entity, joint operation, or Indian Tribe that has an interest in an agricultural operation, as defined in 7 CFR part 1400, who has requested in writing to participate in CSP.

Beginning farmer or rancher means:

(1) An individual or legal entity who:

(i) Has not operated a farm, ranch, or nonindustrial private forest land, or who has operated a farm, ranch, or nonindustrial private forest land for not more than 10 consecutive years (this requirement applies to all members of a legal entity); and

(ii) Will materially and substantially participate in the operation of the farm or ranch.

(2) In the case of a contract with an individual, individually or with the immediate family, material and substantial participation requires that the individual provide substantial day-to-day labor and management of the farm or ranch, consistent with the practices in the county or State where the farm is located.

(3) In the case of a contract with a legal entity or joint operation, all members must materially and substantially participate in the operation of the farm or ranch. Material and substantial participation requires that each of the members provide some amount of the management, or labor and management necessary for day-to-day activities, such that if each of the members did not provide these inputs, operation of the farm or ranch would be seriously impaired.

Chief means the Chief of NRCS, United States Department of Agriculture (USDA), or designee.

Conservation activities means conservation systems, practices, or management measures needed to address a resource concern or improve environmental quality through the treatment of natural resources, and includes structural, vegetative, and management activities, as determined by NRCS.

Conservation district means any district or unit of State, Tribal, or local government formed under State, Tribal, or territorial law for the express purpose of developing and carrying out a local soil and water conservation program. Such district or unit of government may be referred to as a “conservation district,” “soil conservation district,” “soil and water conservation district,” “resource conservation district,” “land conservation committee,” “natural resource district,” or similar name.

Conservation measurement tool means procedures developed by NRCS, to estimate the level of environmental benefit to be achieved by a producer using the proxy of conservation performance improvement.

Conservation planning means using the planning process outlined in the applicable National Planning Procedures Handbook of the United States Department of Agriculture.

Conservation practice means a specified treatment, such as a structural or vegetative practice or management technique, commonly used to meet a specific need in planning and carrying out soil and water conservation programs for which standards and specifications, including interim standards and specifications, have been developed. Conservation practices are in the NRCS Field Office Technical Guide (FOTG), Section IV, which is based on the National Handbook of Conservation Practices (NHCP).

Conservation stewardship plan means a record of the participant's decisions that describes the schedule of conservation activities to be implemented, managed, or improved. Associated supporting information that identifies and inventories resource concerns and existing conservation activities, establishes benchmark data, and documents the participant's conservation objectives will be maintained with the plan.

Conservation system means a combination of conservation practices, management measures, and enhancements used to address natural resource and environmental concerns in a comprehensive, holistic, and integrated manner.

Contract means a legal document that specifies the rights and obligations of any participant who has been accepted into the program. A CSP contract is an agreement for the transfer of assistance from NRCS to the participant for installing, adopting, improving, managing, and maintaining conservation activities.

Designated Conservationist means an NRCS employee whom the State Conservationist has designated as responsible for CSP at the local level.

Enhancement means a type of conservation activity used to treat natural resources and improve conservation performance. Enhancements are installed at a level of management intensity that exceeds the sustainable level for a given resource concern, and those directly related to a practice standard are applied in a manner that exceeds the minimum treatment requirements of the standard.

Enrollment means for the initial signup for FY2009, NRCS will consider a participant “enrolled” in CSP based on the fiscal year the application is submitted, once NRCS approves the participant's contract. For subsequent ranking cut-off periods, NRCS will consider a participant enrolled in CSP based on the fiscal year the contract is approved.

Field office technical guide (FOTG) means the official local NRCS source of resource information and interpretations of guidelines, criteria, and standards for planning and applying conservation practices and conservation management systems. It contains detailed information on the conservation of soil, water, air, plant, and animal resources applicable to the local area for which it is prepared.

Indian lands means all lands held in trust by the United States for individual Indians or Indian Tribes, or all land titles held by individual Indians or Tribes, subject to Federal restrictions against alienation or encumbrance, or lands subject to the rights of

use, occupancy and/or benefit of certain Indian Tribes. This term also includes lands for which the title is held in fee status by Indian Tribes, and the U.S. Government-owned land under the Bureau of Indian Affairs jurisdiction.

Indian Tribe means any Indian Tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Joint operation means, as defined in part 1400 of this chapter, a general partnership, joint venture, or other similar business arrangement in which the members are jointly and severally liable for the obligations of the organization.

Legal entity means, as defined in part 1400 of this chapter, an entity created under Federal or State law.

Liquidated damages means a sum of money stipulated in the CSP contract that the participant agrees to pay NRCS if the participant fails to fulfill the terms of the contract. The sum represents an estimate of the technical assistance expenses incurred to service the contract, and reflects the difficulties of proof of loss and the inconvenience or non-feasibility of otherwise obtaining an adequate remedy.

Local working group means the advisory body as described in 7 CFR part 610.

Management measure means one or more specific actions that is not a conservation practice, but has the effect of alleviating problems or improving the treatment of the natural resources.

National Organic Program means the program, administered by the Agricultural Marketing Service, USDA, which regulates the standards for any farm, wild crop harvesting, or handling operation that wants to market an agricultural product as organically produced.

Natural Resources Conservation Service means an agency of the USDA, which has responsibility for administering CSP using the funds, facilities, and authorities of the Commodity Credit Corporation.

Nonindustrial private forest land means rural land that has existing tree cover or is suitable for growing trees, and is owned by an individual, group, association, corporation, Indian Tribe, or other private legal entity that has definitive decision-making authority over the land.

Operation and maintenance means work performed by the participant to maintain existing conservation activities to at least the level of conservation performance identified at the time of application, and maintain additional conservation activities installed and adopted over the contract period.

Participant means a person, legal entity, joint operation, or Indian Tribe that is receiving payment or is responsible for implementing the terms and conditions of a CSP contract.

Payment means financial assistance provided to the participant under the terms of the CSP contract.

Person means, as defined in part 1400 of this chapter, an individual, natural person and does not include a legal entity.

Priority resource concern means a resource concern that is identified by the State Conservationist, in consultation with the State Technical Committee and local working groups, as a priority for a State, or the specific geographic areas within a State.

Producer means a person, legal entity, or joint operation who has an interest in the agricultural operation, according to part 1400 of this chapter, or who is engaged in agricultural production or forest management.

Resource concern means a specific natural resource problem that is likely to be addressed successfully through the implementation of conservation activities by producers.

Resource-conserving crop means a crop that is one of the following:

- (1) A perennial grass, legume, or grass/legume grown for use as forage, seed for planting, or green manure;
- (2) A high residue producing crop; or
- (3) A cover crop following an annual crop.

Resource-conserving crop rotation means a crop rotation that:

- (1) Includes at least one resource conserving crop as determined by the State Conservationist;